

REMARKS

1. Status of claims

After entry of the above amendment, claims 1-6 and 20-40 are pending.

2. Support for amendment

The above amendment to the claims finds support at p. 3, lines 29-32; p. 4, lines 11-24; and p. 5, lines 21-22. Applicants' cancellation of certain subject matter is not an admission that such subject matter is unpatentable over the cited art. Applicants expressly reserve the right to pursue such subject matter in a continuing application.

3. Objections to the specification

The Examiner objected to the specification at p. 9, line 17, for reciting "GGIGD" when context suggested the correct recitation should have been "GGIGDGG (SEQ ID NO:2)." The above amendment to the specification presents "GGIGDGG (SEQ ID NO:2)" and Applicants therefore submit the basis for the objection has been removed.

4. Objections to the claims

The Examiner objected to claims 6, 23, 26, 29, and 34 for covering "further comprising" subject matter but not reciting "further comprising." Applicants amend claims 6, 23, 26-29, 34, and 37-39 to recite "further comprising" and to revise other phrases. Applicants submit the basis for this objection has been removed.

The Examiner also objected to claims 22 and 33 for reciting non-elected sequences. Applicants request the Examiner withdraw this objection. In light of the above amendment, it is clear to the ordinary skilled artisan that the recited sequences are further components of a composition comprising the elected sequence, SEQ ID NO:2. As the Examiner has found claims reciting a composition comprising SEQ ID NO:2 to be allowable, Applicants submit claims 22 and 33, which are dependent on claims reciting a composition comprising SEQ ID NO:2, would be allowable.

5. *Claim rejections under 35 U.S.C. §112*

The Examiner rejected claims 2-6 and 20-40 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner alleged that the specification does not provide sufficient written description of an invention defined by the claims “a peptide including the sequence GGIGDGG.”

By the above amendment, all pending claims recite compositions containing the isolated peptide GGIGDGG. Applicants therefore submit the basis for this rejection of claims 2-6 and 20-40, as amended, has been removed.

The Examiner rejected claims 22 and 33 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner alleged the specification teaches compositions containing GGIGDGG and at least one angiogenic growth factor, but not compositions containing GGIGDGG and at least one other peptide selected from SEQ ID NO:1, 3-6. Applicants traverse this rejection.

First, to more clearly specify what is claimed, the claims above have been amended to recite an “angiogenic peptide” in place of an “angiogenic growth factor.” The meaning of

“angiogenic peptide” is clear from the specification at p. 3, lines 29-32. At p. 4, lines 3-5, the specification teaches a composition comprising the peptide GGIGDGG. The peptides of SEQ ID NO:1, 3-6 are also taught at p. 4. In light of the specification, the skilled artisan would routinely understand that, at the time the application was filed, Applicants had conceived of a composition comprising GGIGDGG and another peptide of SEQ ID NO:1, 3-6, in view of the open-ended “comprising” term and the description in the specification of several compounds having the same IGD structural motif and similar mechanisms of activity. Therefore, Applicants submit the written description of claims 22 and 33, though not literal, is adequate and request this rejection of claims 22 and 33 be withdrawn.

The Examiner also rejected claims 4, 27, and 28 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Examiner alleged claim 4 did not further limit claim 3. Applicants present the above amendment of claim 4 to clarify that at least one said other at least one angiogenic peptide of claim 3 is further limited to a recombinant angiogenic peptide of claim 4. The Examiner also alleged claims 27-28 lacked antecedent basis for the phrase “the injectable solution.” Applicants present the above amendment of claims 27-28 to provide antecedent basis for this term. Applicants also present the above amendment of claims 37-39 to provide antecedent basis for the same term in those claims.

6. *Conclusion*

Applicants submit all pending claims, as amended, are in condition for allowance. The Examiner is invited to contact the undersigned patent agent at (713) 934-4065 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

WILLIAMS, MORGAN & AMERSON, P.C.
CUSTOMER NO. 45488

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/Raymund F. Eich/
Raymund F. Eich, Ph.D.
Reg. No. 42,508
10333 Richmond, Suite 1100
Houston, Texas 77042
(713) 934-4065
(713) 934-7011 (fax)

AGENT FOR APPLICANTS